

Chapter 3.54

TRAFFIC IMPACT MITIGATION FEES

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3.54.010 Purpose. The Board of Supervisors finds:

A. As established in April 1991 by adoption of this chapter and Resolution 88-91, and reconfirmed in the 1996 study titled "County-Wide Traffic Circulation System Model, Transportation Improvement Program and Funding Strategy," new development creates a cumulative adverse impact on traffic circulation throughout the county, in addition to the project-specific impact, causing the need for both improvement of existing transportation facilities and construction of new facilities to mitigate these new cumulative impacts;

B. Adequate funding to accommodate this need for transportation facilities is not available;

C. It would be infeasible for developers to construct the necessary improvements to mitigate these cumulative impacts caused by individual projects because each project adds a relatively small measure to the total, and the improvement reasonably related to that impact would not be a functional unit able to improve traffic circulation;

D. A traffic impact mitigation fee is necessary to accumulate sufficient funds to finance these necessary additional public transportation facilities;

E. The fee established and imposed by this chapter partially implements Policy Statements 2.A.4 and 2.A.6. and Implementation Programs 2.A.h, 2.A.m, 2.A.n, 2.A.o, 2.A.q, 2.A.t, and 2.A.u in the County General Plan, by requiring development to pay its fair share, providing a mechanism for maintaining adequate levels of service and funding development related components of the Regional Transportation Improvement Program in the County, and

ensures that adequate traffic facilities are available to protect the public health, safety and welfare. Without this fee to mitigate the cumulative adverse traffic impacts, the impacts from development would not be adequately mitigated, the development would be inconsistent with the General Plan, and the public health, safety and welfare would be unacceptably adversely affected by the effects of traffic increases;

F. The purpose of the fee established and imposed by this chapter is to allocate the costs of necessary transportation circulation improvements reasonably among those developments causing the need for the improvements;

G. The use of the fee established and imposed by this chapter is to fund the transportation circulation improvements identified in the Countywide Traffic Circulation Improvement Program;

H. There is a reasonable relationship between the fee's use and the type of development projects on which it is imposed by this chapter because the fee will be used to improve transportation circulation facilities that have been found to be adversely impacted by increased traffic generated by or attracted to those development projects.

I. A reasonable relationship exists between the need for the transportation circulation improvements and the type of development projects on which the fee is imposed by this chapter because, using the study referred to in paragraph A, (a) trip rate projections for each type of development were calculated using studies of actual traffic patterns associated with each type, (b) these trip rates were compared with the existing road capacity to determine the

future transportation circulation deficiencies that will be caused by the development, and (c) the adopted improvement program specifies those transportation facilities necessary to help ensure the additional development-caused traffic will have safe and adequate transportation facilities and the deficiencies will not reduce service levels for existing residents. (Ord. 2254 § 3 (part), 1998; Ord. 1839 § 1 (part), 1991).

3.54.020 Definitions. Words when used in this chapter, shall have the following meanings:

"Agricultural manufacturing or processing facility" means a facility for the preparation, packing, canning or other processing of raw agricultural products into commodities for sale or distribution.

"Community Development Director" means the Community Development Director of the County of Tuolumne or the Director's authorized designee.

"Development project" means any project undertaken for the purpose of development, as defined by Government Code section 65927, that will likely generate or attract additional vehicle trips, and involves the issuance by the County to a project applicant of a permit, license, certificate or other entitlement, including a permit for construction.

"Fee" means the monetary exaction established by this chapter which may be referred to as the County Traffic Impact Mitigation Fee.

"Gross floor area" or ("GFA") means the sum (in square feet) of the area of each floor level (with a minimum head room of six feet, six inches), including cellars, basements, mezzanines, penthouses, corridors, lobbies, stores and offices with the principal outside faces of the exterior walls, not including architectural setbacks or projections.

"Residential development" means single-family residences, multiple-family residences, mobile homes, or other development for residential purposes.

"Vehicle trips" means one or more single or one-directional vehicle movements with either the origin or destination inside a project site, adjusted for pass-by trips, diverted trips, trip length, peak hour impacts and other factors used in the study referred to in section 3.54.010 A to determine the trip rates applicable to development projects. (Ord. 2314 § 16, 1999; Ord. 2254 § 3 (part), 1998; Ord. 2003 § 3,

1993; Ord. 1948 § 1, 1992; Ord. 1839 § 1 (part), 1991).

3.54.030 Establishment of fees.

A. There is established a fee as a condition of approval or issuance of an entitlement for every type of development project, except for a project made exempt from the fee by section 3.54.050, and a project which the community development director determines will not generate or attract vehicle trips. An additional amount of 1% for administration of the fee program is also established as part of the fee.

B. The community development director shall determine the amount of the fee in conformance with this section. For a development project described in the following fee schedule, the fee shall be imposed at the amount designated in the schedule. For a development project not specifically listed in the schedule, the fee established for the most similar listed project shall be used. For a development project which is not sufficiently similar to one listed to ensure the fee adequately mitigates its cumulative impact on traffic circulation throughout the county, the fee shall be determined by calculating the adjusted vehicle trip rate for that type of development project and multiplying the rate times the amount per trip set forth in the fee schedule. Where there are multiple uses with a development project, the fee shall be determined by adding the fee from all uses, except, when the multiple uses are shared within a building in the development project, the primary or predominant use of the building shall be used to determine the fee. For a project in operation on a seasonal basis only, the fee shall be determined by the annual percentage of operation.

C. On July 1 of each year, the fee shall be automatically increased or decreased by the percentage increase or decrease in the San Francisco Consumer Price Index, All Items, all Urban Consumers, published by the U.S. Department of Labor, for the preceding 12-month period.

D. No fee shall be imposed on a development project if (1) a traffic study, approved by the department of public works and the community development director, has been completed which identifies and addresses the project's direct and cumulative impacts on traffic, and (2) all measures (including any improvements and monetary payments),

identified in the study as necessary to mitigate traffic impacts, are implemented.

E. 1. The county department with jurisdiction over the entitlement approved or issued for a development project on which a fee is imposed shall issue or cause to be issued to the project applicant a written notice at the time of final approval which shall state the fee amount (including the automatic adjustment factor) and notification of the commencement of the protest period as required by Government Code section 66020(d)(1). See following pages for fee schedules.

FEE SCHEDULE

Category	Development Project Type	Adjusted ¹ Trip Rate	Fee Amount ² (\$285.35/trip)
Residential:	Single Family Detached (2 + gross acres per parcel)	10.0 /D.U. ³	\$2,854 /D.U.
	Single Family Detached (less than 2 gross acres per parcel)	7.4 /D.U.	\$2,112 /D.U.
	Multi-Family Attached Apartments, duplexes or condominiums are charged per dwelling unit without regard to square footage or number of bedrooms.	5.36 /D.U.	\$1,529 /D.U.

	<p>Mobile Home Park An area or tract of land where more than two spaces are rented or held out for rent to accommodate mobile homes.</p> <p>Retirement Community Five or more residential units, enforceably restricted to those 55 or over and designed for the elderly.</p>	4.22 /D.U.	\$1,204 /D.U.
	<p>Congregate Care Facility Congregate care facilities typically consist of one or more multi-unit buildings designed for elderly living; they may also contain common dining rooms, medical facilities and recreational facilities.</p>	2.15 /D.U.	\$614 /D.U.
	<p>Residential Care Home/ Rehabilitation/Treatment Centers A single family dwelling used for the purpose of providing residential assisted living to more than six persons, or a facility providing inpatient care for persons with alcohol or drug dependency.</p>	1 / Bed	\$285 / Bed

Commercial:	<p>Shopping Center</p> <p>A shopping center is an integrated group of commercial establishments which is planned, developed and managed as a unit. This can include shops contained in one building or enclosed in a mall and also peripheral buildings or pads located on the perimeter of the center adjacent to the streets and major access points, but does not include stand alone restaurants.</p>	20 /1,000S.F. ⁴	\$5,707 /1,000S.F.
Commercial:	<p>High Volume Retail:</p> <p>Drug Store, Department Store, Discount Store, Mini Mart, Liquor Store, Supermarket, Auto Parts Store, Bank, Clothing/Apparel Store, Health Fitness Center, Hardware Store, Pharmacy, Automobile Sales, Grocery Store, Laundromat, Delicatessen.</p>	20 /1,000 S.F.	\$5,707 /1,000S.F.

	Medium Volume Retail: Automobile Repair, Bakery, Club Store, Dry Cleaner, Gift Shop, Lumber/Building Supplies, Nursery, Jewelry Store, Photo Store, Print Shop (retail), Shoe Store, Sporting Goods Store, Stationary Store, Toy Store.	13 /1,000 S.F.	\$3,710 /1,000 S.F.
	Low Volume Retail: Antique Store, Boat/Equipment Repair Shop, Appliance Store, Furniture Store, Gallery, Museum, Boat/RV/Mobile Home Sales, Kennel, Clock Store, Repair Shop (T.V., Radio, Vacuum, etc.), Roadside Stand for Agricultural Products, Wine or beer tasting rooms or product retail sales in conjunction with a winery or brewery.	1.5 /1,000 S.F.	\$428 /1,000S.F.
Food Services:	Stand Alone Restaurant w/ drive through.	161 /1,000 S.F.	\$45,941 /1,000S.F.
	Stand Alone Restaurant w/out drive through.	23 /1,000 S.F.	\$6,563 /1,000S.F.

Specialty Commercial:	Gas Station	32 /Fueling Space ⁵	\$9,131 /Fueling Space
	Food Mart w/Gas Pumps	34 /Fueling Space	\$9,702 /Fueling Space
	Car Wash- Self Serve	21 /Stall	\$5,992 /Stall
	Full Serve	20 /1,000 S.F.	\$5,707 /1,000 S.F.

	Hotel/Motel/Resort (including Bed and Breakfast)	5.2 / Unit ⁶	\$1,484 / Unit
Specialty Commercial:	<p>Child Care Facility</p> <p>Providing nonmedical care , on less than a 24 hour basis, to minors in need of personal services, supervision or assistance essential for sustaining the activities of daily living or for protection of the individual; except for a family day care home as defined in Title 17.</p>	13 /1,000 S.F.	\$3,710 /1,000 S.F.
	Centers and Facilities for Seniors / Disabled and Adult Day Care for less than 24 hours.	1.5 /1,000 S.F.	\$428 /1,000 S.F.

Industrial:	Light, including: Airport/Airstrip Livestock Feedlot/Auction Yard Material Testing Laboratory Meat Packing Facility Printing Plant Slaughterhouse Storage Facilities for Liquids and Gases	6 /1,000 S.F. or 41 /Acre ⁷	\$1,712 /1,000 S.F. or \$11,699/ Acre ⁸
	Heavy, including: Auto Wrecking and Junk Yard Foundry and Smelter Lumber Mill Mining Operation Refining Plant	1.5 /1,000 S.F. 6.75 /Acre	\$428 /1,000 S.F. \$1,926 /Acre
	Manufacturing/Assembly/ Agricultural Processing Manufacturing or assembly facilities where the primary activity is the conversion of raw materials, products or parts into finished commodities for sale or distribution, including a winery or brewery.	3 /1,000 S.F. or 30 /Acre	\$856 /1,000 S.F. or \$8,561 /Acre

Public Utilities:	Utilities (Publicly or privately owned) Production, generation, storage, transmission and treatment facilities and electro mechanical or industrial space, parts and equipment storage and repair areas, and office space in the same project and directly related to or used for these utility uses.	6/ 1,000 S.F. or 41 / Acre	\$1,712 / 1000 S.F. \$11,699 / Acre
Business Park:	Business Park in BP zoning district	6 /1,000 S.F.	\$1,712 /1,000 S.F.
Warehousing/ Storage:	Warehouse facilities primarily devoted to the storage of materials, including wholesale distribution facilities.	5 /1,000 S.F.	\$1,427 /1,000 S.F.
	Mini-storage Facilities Buildings housing separate storage units or vaults used for storage.	2 /1,000 S.F.	\$571 /1,000 S.F.

	Outside Storage Area used for outdoor storage including boat and RV storage facilities	10 /Acre	\$2,853 /Acre
Office:	General Office	11 /1,000 S.F.	\$3,139 /1,000 S.F.
Medical:	Hospital	11.8 /Bed	\$3,367 /Bed
	Nursing Home/ Convalescent Home	2.6 /bed	\$742 /Bed

	Medical Office or Medical or Health Clinic providing diagnostic or treatment services	30 /1,000 S.F.	\$8,561 /1,000 S.F.
Other:	Golf Course	21 /Hole	\$5,992 /Hole
	Theater (Movie)	6.4 /1,000 S.F.	\$1,826 /1,000 S.F.
	Theater (Live)	1.5 /1,000 S.F.	\$428 /1,000 S.F.

	Recreational	3.1/Parking Space	\$885 /Parking Space
	Social clubs, lodges, non-profit meeting halls	1.5 / 1000 S.F.	\$428 / 1000 S.F.
	Mortuary / Funeral Home	6 / 1,000 S.F.	\$1,7121 / 1,000 S.F.

(Ord. 2314 §§17, 18, and 19, 1999; Ord. 2254 §3 (part), 1998; Ord. 1839 §1(part), 1991)

¹ The vehicle trip rates are for calculation of fees only. These trip rates have been adjusted to consider pass by trips, diverted trips, trip length, peak hour impacts and other factors.

² An administrative charge of 1% in addition to the fee is also established and imposed.

³ Dwelling Unit

⁴ Square Feet of the gross floor area, measured to the nearest square foot; applicable to structures only.

⁵ The number of fueling spaces is determined by the maximum number of vehicles capable of being fueled simultaneously.

⁶ Sleeping unit, dwelling unit, rental unit, or other component by which the development is marketed.

⁷ Acreage shall be measured by the amount authorized for development.

⁸ When a project includes both structures and acreage, the fee shall be determined by the primary or predominant use unless there the uses are substantially equal in which event, the calculation that results in the higher fee shall apply.

3.54.040 Fee payment and credits.

A. Except as provided herein, the fee shall be paid to the community development department prior to the issuance of a certificate of occupancy or date of final inspection, whichever occurs first, or if the project does not require a building permit, prior to commencing any activity pursuant to an entitlement granted pursuant to Title 17, or if the project does not require either a building permit or a Title 17 entitlement, prior to the issuance of an encroachment permit or any other entitlement.

B. For a residential development project, the fee shall be paid either (1) prior to the issuance of an authorization for electrical power ("blue tag") by the community development department division of building and safety, (2) prior to the connection of electrical service to the development, or (3) at the time escrow closes if, prior to the issuance of a building permit, an escrow account has been established for the parcel on which the development is constructed. Proof that an escrow account has been established shall be submitted to the satisfaction of the chief building official. If an escrow account has been established, prior to the issuance of the building permit, the chief building official shall (1) require the property owner to execute a contract to pay the fee at close of escrow, (2) record the contract, and (3) submit a demand to the escrow holder for fee payment. The contract shall be a lien contract within the meaning of Government Code section 66007. The chief building official is authorized to enter into and record these contracts on behalf of the county, and to execute a release of the lien upon satisfaction of the fee obligation.

C. When application is made for a new building permit following the expiration of a previously issued building permit for which a fee was paid, an additional fee is required only to the extent of any increase of the fee since the original fee was paid.

D. If a subsequent development project occurs on property for which a fee has been paid, an additional fee shall be required only for additional development, subject to the fee, that was not included in calculating the prior fee.

E. When a fee is paid for a development project and that project is subsequently reduced so that it is entitled to a lower fee, the community development director shall redetermine the fee and the county auditor shall issue a warrant for a partial refund of the fee.

F. When a fee is paid for a development project and the project is subsequently abandoned without any further action beyond the obtaining of a building permit, the county auditor shall issue a warrant for a refund of the fee paid, less any administrative portion of the fee, upon written confirmation by the chief building official that the building permit has been canceled.

G. If the use of a development project, exempt from a fee at the time of approval, changes to a use that is not exempt, the applicable fee for the changed use shall be paid prior to the issuance of a building permit or Title 17 entitlement necessary for the change, or on the date of change in use, whichever occurs first.

H. A credit against payment of the fee shall be granted based on the value of (1) transportation improvements, or (2) donation or dedication of land or facilities, which improvements, land or facilities are included in the Countywide Traffic Circulation Improvement Program, or directly reduce the costs of any improvement identified in that Program. Transportation improvements are any improvements associated with a roadway widening, roadway extension, capacity improvement or traffic signal installation on the Countywide Traffic Circulation Improvement Program, and includes, grading, paving, curb and gutter, sidewalks, transit stops, median islands, channelization, interchanges, relocation of utilities, over crossings, sound walls, bridges, lighting, landscaping, right of way and mitigation of environmental impacts. The eligibility for and amount of any credit shall be determined by the community development director.

I. At the time of fee payment, the county department receiving the fee shall issue or cause to be issued to the project applicant a written notice identifying the Countywide Traffic Circulation Improvement Program as the public improvements the fee will be used to finance. (Ord. 2314 § 20, 1999; Ord. 2254 §3 (part), 1998; Ord 1839 § 1 (part), 1991).

3.54.050 Fee exemptions. The following development projects are exempt from a fee:

A. Accessory buildings to residential development.

B. A facility owned by the County of Tuolumne and built with public funds, or a facility leased to and occupied by the County. This exemption does not apply to a project constructed on county owned or leased land unless it qualifies as provided herein.

Notwithstanding section 3.54.040 G, no fee shall be due upon a termination of the qualifying use if it has continued for 20 or more years.

C. Crisis center providing free temporary services to individuals or families to assist them in responding to a physical, emotional, or family emergency.

D. State or Federal facilities exempt from local fees by law.

E. Homeless shelter providing free temporary housing and ancillary services for one or more individuals or families who are otherwise homeless.

F. Medical clinic providing exclusively out patient medical services, and which is constructed exclusively with government funding.

G. Museum for the procurement, care or study of objects of historical or other lasting interest which also exhibits the objects for public viewing.

H. Nursing home or convalescent home providing medical and ancillary care services for ill or injured persons who are unable to care for themselves, and which is constructed exclusively with government funding.

I. Park or recreational facility owned by Tuolumne County or a Special District which district is located within the county.

J. Public library where literary, musical, artistic or educational materials are maintained for public use, but not for sale.

K. Religious facility designed, constructed, intended and used primarily for conducting organized religious activities.

L. School providing one or more courses of study in any branch of knowledge, that is operated on a non-profit basis.

M. Youth recreational facility providing recreational opportunities for minors that is operated on a non-profit basis.

N. The substantially equivalent reconstruction, on the same parcel, of any development that was unintentionally damaged or destroyed; provided, any reconstruction which is not substantially equivalent (within the meaning of Government Code section 66011), other than a single family residential development project, shall be deemed to be a new development project and subject to the applicable fee for the excess portion.

O. The replacement, on the same parcel, of an existing development unless the development

replaced had been unoccupied for 18 months or more.

P. The relocation on a different parcel, of any development without a net increase in size (except single family residential), provided the existing development, on the parcel from which the relocation occurs, is demolished within six months of the date of project commencement, or the ownership or possession of which has been transferred to the federal, state or county government.

Q. Buildings, structures, growing areas, and open space related to the production, raising, or storage of agricultural products and which do not include retail sales or an agricultural manufacturing or processing facility. (Ord.2254 §3 (part), 1998; Ord. 2003 §1, 1993; Ord. 1948 §2, 1992; Ord. 1844 §2, 1991; Ord. 1839 §1 (part), 1991).

3.54.060 Appeals. Determinations of the community development director that a development project will not generate or attract additional vehicle trips, pursuant to section 3.54.030 A, and determinations of fee credits pursuant to section 3.54.040 H may be appealed to the board of supervisors. The appeal, accompanied by the fee set forth in chapter 3.40, shall be submitted to the community development department within ten days from the date of the decision and shall set forth in writing the reasons for the appeal. An appeal shall not be considered unless it sets forth the reasons why it is claimed the director's determination was incorrect. The community development department shall immediately forward a copy of the appeal to the clerk of the board. The clerk shall schedule the matter for consideration by the board within thirty days from the date of appeal and send a notice to the appealing person at least ten days before the meeting. Within forty-five days of receipt of the appeal the board shall take action on the appeal. Appeals not submitted in a timely manner will not be considered and will be returned. (Ord. 2314 §21, 1999; Ord 2252 §3 (part), 1998; Ord. 2003 §2 1993).

3.54.070 Accounting, expenditure and refund of fees.

A. The fee shall be deposited, invested, accounted for and expended pursuant to California Government Code Section 66006. The fee shall be deposited by the county auditor in the Regional Road Fund, and shall be

expended solely for the purposes described in this chapter. The treasurer shall avoid commingling with other funds, except for temporary investments. Interest earned by moneys in the fund shall be deposited to the same fund.

B. The administrative fee shall be expended for costs, including salaries and overhead, incurred by the community development department and department of public works in administering this chapter, and shall be appropriated through the annual county budget process, or similar procedure provided by law.

C. Within 180 days after June 30th of each year, the auditor, director of public works, and the community development director shall jointly make available to the public, and schedule a review by the board of supervisors within 15 days, the information required by Government Code section 66006(b)(1); provided, the information required by that section on sufficiency of funds (including the amount from the fee) and commencement of construction shall be a recommendation only and shall not constitute a determination on these issues under Government Code section 66001.

D. Upon receipt of the information described in subdivision B, if any funds remain unexpended in the fund, the board shall make the findings required by Government code section 66001(d), or shall refund the moneys in the fund as provided in that section. The board also shall determine whether sufficient funds (including the fee) have been collected to complete financing on an incomplete improvement for which the fee was collected, and if it determines the funds are sufficient shall identify, within 180 days, an approximate date by which the construction of the improvement will be commenced, or shall refund the moneys in the fund as provided in Government code section 66001. (Ord. 2314 § 22, 1999; Ord. 2254 § 3, 1998; Ord. 2003 § 2, 1993)